

SUBCHAPTER R : RICHLAND CREEK RESERVOIR

§284.401. Definitions.

The following words and terms, when used in this subchapter, shall have the following meanings, unless the context clearly indicates otherwise:

Commission - The Texas Water Commission.

District - The Tarrant County Water Control and Improvement District No. 1.

District supplements - District supplements to the standards published by the Texas Department of Health. These supplements shall be approved by the commission and the Texas Department of Health.

Executive director - The executive director of the Texas Water Commission.

Holding tank - A vented, watertight tank designed for temporary holding of sewage and so constructed as to prevent the removal of the sewage except by pumping therefrom, for delivery to an approved sewage disposal system.

msl - An abbreviation for mean sea level.

Organized disposal system - Any public or private system for the collection, treatment and disposal of sewage operated in accordance with the terms and conditions of a valid permit issued by the commission.

Private sewage facility - All facilities, systems, and methods used for the disposal of sewage other than disposal systems operated under a permit issued by the commission.

Richland Creek Reservoir - The lake on the Richland and Chambers Creeks near the Trinity River in Navarro and Freestone Counties, approximately 26 miles east of the City of Corsicana.

Sewage - Waste that is primarily organic and biodegradable or decomposable and that generally originates as human, animal, or plant waste from certain activities, including using toilet facilities, washing, bathing, and preparing food.

Standards - The standards set forth in the pamphlet entitled "Construction Standards for On-Site Sewerage Facilities" and all future amendments thereto, which were adopted by the Texas Board of Health, pursuant to Texas Civil Statutes, Article 4477-1, as Texas Department of Health rules, 25 TAC §§301.11-301.17 (relating to Construction Standards for On-Site Sewerage Facilities), effective January 1, 1988.

Subdivision - A subdivision which has been platted and recorded with the county clerk of the county or counties in which the land lies, or which is required by statute to be so platted and recorded; or any four or more adjoining lots or tracts, any of which is less than two acres in size.

Substantial modification - An alteration of a private sewage facility that increases the total volumetric capacity of the facility by 25% or more, or an increase in the flow rate into the facility, calculated in accordance with the "Standards," by 25% or more.

§284.402. Regulated Area.

The regulated area is the area for which these regulations apply. This area is defined as all of the area bounded by a line with all points on that line being a distance of 2,000 feet from the nearest point on the 320-foot msl contour line, measured horizontally away from the reservoir. The regulated

area also includes all the area of the lake bed to the 320-foot msl contour line, and all islands.

§284.403. Discharge of Sewage Within the Regulated Area.

All sewage disposal within the regulated area shall be in accordance with one of the following types of authorizations:

- (1) sewage discharged into an organized waste disposal system or other facility operating under a valid permit issued by the commission;
- (2) sewage discharged into private sewage facilities licensed in accordance with the regulations contained in this subchapter;
- (3) sewage discharged into an alternate type of private sewage facility which meets the standards of the Texas Department of Health and licensed by the district; and
- (4) sewage discharged into a private sewage facility existing on October 5, 1982, for so long as such private sewage facility either, is operating properly and is not causing nuisance conditions or pollution or a threat to public health, or has not been substantially modified since October 5, 1982.

§284.404. Licensing Functions.

The Tarrant County Water Control and Improvement District No. 1 is designated by the commission as having the duty to perform, and the necessary powers to meet, all requirements of this subchapter, including the licensing and enforcement functions. The district's powers include, but are not limited to, making reasonable inspections of all private sewage facilities located or to be located within the regulated area and collecting all fees necessary to recover all the costs incurred in meeting the requirements of this subchapter.

§284.405. Licensing Requirements for New Private Sewage Facilities.

(a) Private sewage facilities installed after October 5, 1982, and before the effective date of this subchapter, and within the regulated area must meet the following requirements.

(1) A permit for construction must be obtained from the district before the construction of these facilities commences. A license to operate will be issued after satisfactory completion and verification of construction.

(2) The lot or tract which the private sewage facilities will serve must be at least 15,000 square feet in size above the 320-foot msl contour line used to establish the regulated area except any lot or tract platted or recorded on or prior to October 5, 1982, must contain at least 10,000 square feet above the 320-foot msl contour line used to establish the regulated area.

(b) All private sewage facilities to be installed or constructed after the effective date of this subchapter must conform to the latest edition of the "Standards." These standards are available from

the Tarrant County Water Control and Improvement District No. 1 offices located in Fort Worth, Texas, or at Richland Creek Reservoir.

(c) The following terms and procedures shall apply to new private sewage facilities.

(1) Any license issued under the authority of these sections will be for an indefinite period and may be transferred to a succeeding owner provided the new owner applies to the district and provided the private sewage facility has not been substantially modified.

(2) Application forms for a private sewage facility construction permit may be obtained from the district. In order to initiate an application, a completed application form together with the appropriate fee shall be filed with the district.

(3) The district will cause to be performed such inspections and tests as may be deemed necessary as soon as practicable. After such inspections and tests and upon a finding by the district that construction can commence, a permit for construction will be issued.

(4) Upon a finding by the district that a private sewage facility construction permit cannot be issued, the applicant shall be so notified in writing within 30 days of that finding. The notification shall include the nature of the faults which prevent the issuance of a permit.

(5) After construction and upon a finding by the district that use of the private sewage facility will not cause pollution or injury to the public health and is not in conflict with the terms and conditions of this subchapter and upon payment of appropriate fees, a license to operate the system will be issued.

(6) Upon a finding by the district that the private sewage facility cannot be licensed, the applicant shall be so notified in writing within 30 days of that finding. The notification shall include the nature of the faults which prevent licensing.

§284.406. Approval of Subdivision Plans for Private Sewage Facilities.

(a) Any developer or other person interested in creating a subdivision using private sewage facilities must obtain approval from the district of his plan for sewage disposal. He or she must fulfill the following requirements.

(1) A plat of the proposed subdivision must be filed with, approved by, and recorded by the county commissioners court of the county in which it is located.

(2) An application for approval of the subdivision sewage disposal plan and appropriate filing fee shall be submitted to the district.

(3) The developer shall inform each prospective buyer:

(A) that a subdivision is subject to all of the terms and conditions of these regulations;

(B) that a permit for construction will be required before any private sewage facility can be constructed in the subdivision;

(C) that a license will be required for the operation of such a private sewage facility; and

(D) that a sewage disposal plan has been filed for the subdivision and that the areas suitable for private sewage facilities have been defined.

(4) If investigation pursuant to this section reveals that a lot is not suitable for use of private sewage facilities, the prospective buyer shall be so notified.

(b) The district will cause to be prepared a percolation test profile of the entire subdivision, consisting of percolation tests of a representative number of proposed lots or tracts (as defined and approved by the district) to determine whether the subdivision can be served with private sewage facilities. These tests will be at the expense of the developer.

(c) By direction of the district, all or part of the tests may be performed by an engineering firm, soils testing laboratory, registered professional sanitarian, or similarly qualified person, approved by the district. The district will notify the developer of the findings of its examination and will point out any deficiencies in the plan for sewage disposal. Specifically, the district will notify the developer of any areas not suitable for use of private sewage facilities and whether the proposed developmental density is consistent with the use of private sewage facilities. Approval of a subdivision plan for sewage disposal does not constitute a license for a specific private sewage facility. An approved plan is, however, a prerequisite for obtaining a private sewage facility license in a subdivision.

§284.407. Existing Private Sewage Disposal Systems.

(a) Private sewage disposal facilities existing within the regulated area on October 5, 1982, are not required to be licensed provided the facility is not causing pollution or injury to public health.

(b) If a system in existence on October 5, 1982, is found to be malfunctioning, the district shall require correction and licensing as a new system in accordance with §284.405 of this title (relating to Licensing Requirements for New Private Sewage Facilities).

(c) Private sewage disposal facilities existing within the regulated area on October 5, 1982, must be licensed as a new facility if the facility is substantially modified.

(d) Licenses for private sewage facilities issued by the district pursuant to Texas Department of Water Resources rules (§§371.401-371.414 of this title (relating to Richland Creek Reservoir)), which are replaced by this subchapter, shall remain in effect for the term stated therein as if issued under this subchapter.

§284.408. Connection of Private Sewage Facilities to Organized Waste Collection, Treatment, and Disposal Systems.

It is the policy of the legislature and the commission to encourage the development and use of organized waste collection, treatment, and disposal systems to serve the waste disposal needs of the citizens of the state and to prevent pollution and maintain and enhance the quality of the water in the state. In order to implement this policy in the regulated area, the commission makes the following requirements.

(1) No license shall be issued for any private sewage facility when any part of that facility is closer than 300 feet in horizontal distance to an organized waste collection, treatment, and disposal system; rather, the facility shall be connected to the organized system whenever feasible and legally possible.

(2) Whenever an organized waste collection, treatment, and disposal system is developed within 300 feet in horizontal distance from any part of a private sewage facility, license or not, that facility shall be connected to the organized system whenever feasible and legally possible.

§284.409. Terms and Conditions for Granting Exceptions.

The commission intends that these sections shall be enforced but realizes that certain individual situations may require the granting of an exception to requirements contained in this subchapter so that hardships may be avoided. Therefore, the following terms and conditions are established.

(1) Any person desiring an exception shall file an application with the district for its analysis of the specifics of the situation.

(2) The district shall make the necessary review and within 60 days either grant or deny the application. If an exception is denied, a statement setting out the reasons for the district's decision and what corrective measures, if any, could be undertaken to obtain licensure, shall be furnished.

§284.410. Terms and Conditions of Appeal.

(a) The commission intends that any disputes concerning the application of this subchapter to individual situations be negotiated to conclusion between the district and the individuals involved, if possible. However, any person aggrieved by an action or decision of the district may appeal to the executive director, if the following terms and conditions are met.

(1) All of the appropriate steps required of the aggrieved person by the terms and conditions of this subchapter have been met.

(2) The aggrieved person has made a conscientious effort to resolve his problems with the district.

(b) Appeal is properly made by the aggrieved party by filing a written statement stating with specificity the nature of the grievance. This statement is to be filed with the executive director who will then cause notice of the appeal to be issued to the district. The executive director will either affirm, reverse, or modify the decision of the district.

§284.411. License Fees.

(a) License fees will be in accordance with a fee schedule established by the district. These fees shall be paid to and collected by the district so long as the district remains the designated agent for the purposes and functions specified in these sections.

(b) The establishment of this fee schedule does not impair or prohibit the imposition of reasonable charges by the district for special services performed by the district at the request of the applicant in connection with presentation of an application and required data. Percolation tests and other examinations not conducted by the district will be performed by engineering firms, soils testing laboratories, registered professional sanitarian, or similarly qualified person, approved by the district.

§284.412. Enforcement.

(a) Criminal penalty (Texas Water Code, §26.214).

(1) A person who violates any provision of this subchapter is guilty of a misdemeanor and on conviction is punishable by a fine of not less than \$10 nor more than \$200. Each day that a violation occurs constitutes a separate offense.

(2) Jurisdiction for prosecution of a suit under this section is in the justice of the peace courts.

(3) Venue for prosecution of a suit under this section is in the justice of the peace precinct in which the violation is alleged to have occurred.

(b) Civil penalty. A person who violates any provision of this subchapter is subject to an injunction by court order and to a civil penalty to be recovered as provided in the Texas Water Code, Chapter 26.

§284.413. Severability Clause.

If any provision of this subchapter or the application thereof to any person or circumstances is held invalid, the validity of the remainder of the subchapter and of the application of such provision to other persons and circumstances shall not be affected thereby.

§284.414. Fee Schedule.

The district shall establish a fee schedule for the private sewage facilities regulatory program around Richland Creek Reservoir and maintain a copy of such fee schedule at the district offices for inspection by the public. Such fee schedule shall set reasonable fees for services performed by or at the direction of the district and may, subject to applicable laws, be amended by the district from time to time.